

MICHAEL E. ZAPIN, ESQ.
Admitted for this Case, *Pro*
Hac Vice
Florida Bar No. 0037264
michaelezapin@gmail.com
20283 State Rd 7, Suite 400
Boca Raton, FL 33498
Tel. 561.843.5352

HERMAN A. SAITZ, ESQ.
Resident Nevada Counsel
Nevada Bar No. 389
2001 Redbird Drive
Las Vegas, NV 89134
Tel. 702.807.5757

ATTORNEYS FOR PLAINTIFF

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

Case No. 2:16-cv-00578-JAD-PAL

BARRY MICHAELS on behalf of himself
and all others similarly situated,

ECF No. 24

Plaintiffs,

vs.

LORETTA LYNCH, as Attorney General of
THE UNITED STATES OF AMERICA and

THOMAS E. BRANDON, as DEPUTY DIRECTOR,
HEAD OF THE BUREAU OF ALCOHOL,
TOBACCO, FIREARMS AND EXPLOSIVES,

Defendants

ORDER GRANTING

**PLAINTIFF'S SECOND *CONSENT/UNOPPOSED* MOTION TO ENLARGE TIME
TO RESPOND TO DEFENDANTS' MOTION TO DISMISS**

1 COMES NOW the above named Plaintiff, by and through his undersigned attorney of
2 record MICHAEL E. ZAPIN, pursuant to Local Rule 7.2 and Rule 6(b) of the Federal
3 Rules of Civil Procedure, and files this *consent/unopposed motion* to extend plaintiff's time
4 to respond to defendants' pending motion to dismiss up through and including September
5 8, 2016, and respectfully sets forth the following:
6

7
8 **I. PROCEDURAL BACKGROUND**

- 9 1. Plaintiff filed his complaint against the defendants on March 15, 2016 [DE 1].
10 2. Defendants filed an *unopposed/consent* motion to extend their time to answer or
11 otherwise move with respect to service of plaintiff's complaint, and same was granted
12 by 6/23/2016 Order of the Court up through 7/25/16 [DE 17].
13 3. Defendants served their motion to dismiss plaintiff's complaint on 7/25/2016 [DE 19],
14 and the docket entry indicated that "Responses [were] due by 8/11/2016."
15 4. Plaintiff filed one prior unopposed/consent motion, which was granted by the Court by
16 Minute Order dated 8/12/2016[DE 22], extending plaintiff's time up through and
17 including today, August 25, 2016.
18

19
20 **II. "GOOD CAUSE" FOR REQUESTED EXTENSION**

- 21 5. Local Rule 7-2(b) provides in pertinent part, that "points and authorities in response to
22 a motion shall be filed and served by an opposing party fourteen (14) days after service
23 of the motion."
24 6. Rule 6(b)(1) of the Federal Rules of Civil Procedure, provides, in pertinent part:
25
26
27

(b) Extending Time.

(1) *In General*. When an act may or must be done within a specified time, the court may, for good cause, extend the time:

(A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or

(B) on motion made after the time has expired if the party failed to act because of excusable neglect.

7. Plaintiff submits that the within application is timely made and that the circumstances described herein constitute “good cause” to extend counsel’s time an additional 14 days, up through and including September 8, 2016, to respond to defendants’ motion to dismiss.
8. The constitutional issues raised in this litigation and sought to be dispensed with by the defendants’ pending motion, arguably concern core, fundamental rights belonging to the plaintiff. There are unique arguments that will be presented to the Court for its consideration, and plaintiff needs the additional time to frame and consolidate those arguments. Plaintiff believes that the Court’s recognition and resolution of those arguments will not only be dispositive to the parties in the instant action, but will also resonate among various districts and circuits that continue to grapple with these issues in a *post-Heller* setting.
9. Defendants will not be prejudiced by the granting of the within requested relief. Undersigned counsel has conferred with defendants’ counsel, Daniel Reiss, Esq., via email, who has indicated his consent to the relief requested herein. On the other hand, plaintiff would be substantially prejudiced if the within requested relief were not to be granted, since the Court would likely grant defendant’s motion on the basis of default,

1 rather than evaluating the important issues raised by defendants' motion on the basis of
2 merit.

3
4 **WHEREFORE**, for all of the forgoing reasons, it is respectfully requested that the Court
5 enter an Order enlarging plaintiff's time to respond to defendants' pending motion to
6 dismiss, up through and including **September 8, 2016**, along with such other and further
7 relief that the Court deems just and proper.
8

9
10 DATED: August 25, 2016.

11 /s/ Michael E. Zapin

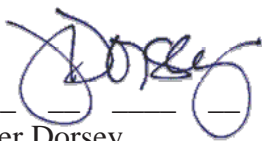
12 MICHAEL E. ZAPIN, ESQ.
13 Admitted for this Case, Pro Hac Vice
14 Florida Bar No. 0037264
15 michaelezapin@gmail.com
16 20283 State Rd 7, Suite 400
17 Boca Raton, FL 33498
18 Tel. 561.843.5352

19 HERMAN A. SAITZ, ESQ.
20 Resident Nevada Counsel
21 Nevada Bar No. 389
22 2001 Redbird Drive
23 Las Vegas, NV 89134
24 Tel. 702.807.5757

25 **ATTORNEYS FOR PLAINTIFF**

26 **ORDER**

27 Good cause appearing, the unopposed motion to enlarge the deadline to respond to the
motion to dismiss [ECF No. 24] is GRANTED. Plaintiff has until September 8, 2016, to
file a response to the motion to dismiss [ECF No. 19].



Jennifer Dorsey
U.S. District Judge 8/26/16